

MASTER INTERAGENCY AGREEMENT
BETWEEN
THE UNITED STATES DEPARTMENT OF ENERGY
NATIONAL ENERGY TECHNOLOGY LABORATORY
AND
THE DEPARTMENT OF THE ARMY

ARTICLE I - PURPOSE AND AUTHORITY

This Master Interagency Agreement ("MIA") is entered into by and between the Department of the Army ("DA") and the U.S. Department of Energy, National Energy Technology Laboratory ("DOE/NETL") (collectively "the parties") for the purpose of establishing a mutual framework governing the respective responsibilities of the parties. The agreement will enable the DA to utilize DOE/NETL capabilities that include programs, projects, physical plant and other activities, as it requests. The DA may, as agreed by the parties, provide engineering and environmental services, project management, construction management, and other technical support to DOE/NETL in the management of DOE/NETL's programs, projects, and other activities, as requested. This MIA is entered into pursuant to the Economy in Government Act (31 U.S.C. § 1535).

ARTICLE II - SCOPE

Goods and services which DOE/NETL may provide under this MIA include technical assistance to the DA, including science and engineering, systems analysis, in-house research and development, and the assessment, demonstration, and deployment of advanced environmental and energy systems and technologies, and such other related goods and services as may be agreed upon in the future. These technologies have been or are being developed under the DOE/NETL Fossil Energy, Energy Efficiency, Environmental Management, and Legacy Management Programs. DOE/NETL may utilize the DOE network of National Laboratories, academia, and industrial partners, as needed. Specific goods and services will be requested through individual Work Orders ("WOs") and may include, but are not limited to:

- coordinating the demonstration of advanced environmental or energy technologies at DA designated sites;

- providing updated information on the status and progress of potentially applicable technologies;

- providing engineering and technical capabilities in environmental technologies, fossil energy manufacturing and usage, energy infrastructure, acid mine drainage, procurement and contract administration, and metrics;

- evaluating the relative merits of conventional and innovative technologies for environmental and watershed management;

- providing in-house research and development;
- coordinating and conducting tests of potential technologies so that results will be useful to the DA in its assessment process; and
- providing technical support to DA's Homeland Security Program.

Goods and services which the DA may provide under this MIA include the provision of technical support to DOE/NETL in the management of DOE/NETL's Demonstration Projects, Engineering Development Projects, physical plant and other activities, , and such other related goods or services as may be agreed upon in the future. Specific future goods and services may include, but are not limited to:

- evaluation and monitoring of demonstration and advanced research and development projects;
- economic assessments of alternative advanced technologies, reviewing and developing cost estimates, and performing cost engineering and analysis;
- coordinating the deployment of DOE/NETL projects at various sites, as requested;
- assessing and designing DOE/NETL's and/or its contractors' environmental, safety, and health (ES&H) programs in support of DOE/NETL's project activities;
- evaluating and implementing selected DOE/NETL environmental activities in support of DOE/NETL's project activities related to fossil energy production and distribution infrastructure, and energy efficiency;
- participation in, and support of, independent technical cost reviews of DOE/NETL capital acquisition projects; and
- providing technical support to DOE/NETL's Homeland Security Mission.

The U.S. Army, Corps of Engineers, Huntington District (CELRH) will serve as the point of contact for the DA. The parties will coordinate DA's proposed use of DOE/NETL's expertise by any Corps office or laboratory through CELRH. WOs, as described herein, shall define deliverable requirements. The parties will coordinate DOE/NETL's proposed use of DA expertise to provide technical support to DOE/NETL through CELRH. WOs, as described herein, shall define deliverable requirements.

Nothing in this MIA shall be construed to require the DOE/NETL to use the DA or to require the DA to provide any goods or services to the DOE/NETL, except as may be set forth WOs. Conversely, Nothing in this MIA shall be construed to require the DA to use the DOE/NETL or to require the DOE/NETL to provide any goods or services to the DA, except as may be set forth in WOs. As used herein, the terms "requesting agency" and "servicing agency" are as defined in Federal Acquisition Regulation (FAR) Subpart 17.5.

ARTICLE III - INTERAGENCY COMMUNICATIONS

To provide for consistent and effective communication between the DA and the DOE/NETL, each party shall appoint a Principal Representative to serve as its central point of contact on matters relating to this MIA. The DA Principal Representative will be the Chief of Planning, Programs and Project Management Division at the Huntington District, U.S. Army Corps of Engineers and the DOE/NETL Principal Representative will be the NETL Contracting Officer. Additional representatives may also be appointed to serve as points of contact on WOs.

ARTICLE IV - WORK ORDERS

In response to requests from the DOE/NETL for DA assistance under this MIA, the DA and the DOE/NETL shall conclude mutually agreed upon written WOs. Those WOs must be on either Engineer Form 4914-R or similar document containing the same information as Department of Defense Form 1144 and WOs issued by the DOE/NETL to the DA must be on DOE Form 1270.1 (U.S. Department of Energy Interagency Agreement Face Page). WOs must include:

- a detailed scope of work statement;
- schedules;
- funding arrangements, including whether payment shall be in advance or by reimbursement;
- the amount of funds required and available to accomplish the scope of work as stated above;
- the DOE/NETL's fund citation and the date upon which the cited funds expire for obligation purposes;
- identification of individual project managers;
- identification of types of contracts to be used (if known);
- types and frequencies of reports;
- identification of which party is to be responsible for government-furnished equipment; contract administration; records maintenance; rights to data, software, and intellectual property; and contract audits;
- procedures for amending or modifying the WO; and
- such other particulars as are necessary to describe clearly the obligations of the parties with respect to the requested goods and services.

Goods or services shall be provided under this MIA only after an appropriate WO has been signed by a representative of each party authorized to execute that WO. Upon signature by each party's representative, a WO shall constitute a valid Economy in Government Act order. In the case of conflict between this MIA and a WO, this MIA shall control.

ARTICLE V - RESPONSIBILITIES OF THE PARTIES

A. Responsibilities of the Servicing Agency

1. The servicing agency shall provide the requesting agency with goods or services in accordance with the purpose, terms, and conditions of this MIA and with specific requirements set forth in WOs and implementing arrangements.

2. The servicing agency shall identify its authorized representatives to sign WOs.

3. The servicing agency shall use its best efforts to provide goods or services either by contract or by in-house effort.

4. The servicing agency shall provide detailed periodic progress, financial and other reports to the requesting agency as agreed to in the WO. Financial reports shall include information on all funds received, obligated, and expended, and on forecast obligations and expenditures.

5. The servicing agency shall inform the requesting agency of all contracts entered into under each WO.

B. Responsibilities of the Requesting Agency

1. The requesting agency shall certify, prior to the execution of each WO under this MIA, that the WO complies with the requirements of the Economy in Government Act.

2. The requesting agency shall pay all costs associated with the servicing agency's provisions of goods or services under this MIA and shall certify, at the time of signature of a WO, the availability of funds necessary to accomplish that WO.

3. The requesting agency shall ensure that only its authorized contracting officers sign WOs.

4. The requesting agency shall develop draft WOs to include scope of work statements.

5. Except as otherwise stated in the WO, the requesting agency shall obtain for the servicing agency all necessary real estate interests and access to all work sites and support facilities, and shall perform all coordination with and obtain any permits from state and local agencies, as necessary during the execution of each WO.

6. The Requesting Agency, as [owner/generator and/or generator] shall retain legal liability, as between the requesting agency and the executing agency and its contractors, for all hazardous substances and wastes associated with work under this MIA.

ARTICLE VI - FUNDING

The requesting agency shall pay all costs associated with the servicing agency's provision of goods or services under this MIA. For WOs for work estimated to cost more than \$250,000 total in contracts and in-house services or \$50,000 in contracts, the servicing agency shall bill the requesting agency in advance and the requesting agency shall provide the necessary funds in advance. For WOs for work valued at less than these amounts, the requesting agency may reimburse the servicing agency for the goods or services. For these lesser requirements, the servicing agency shall bill the requesting agency monthly for costs incurred, using Standard Form ("SF") 1080, Voucher for Transfers between Appropriations and/or Funds, and the requesting agency shall reimburse the servicing agency within 30 days of receipt of an SF 1080.

If the servicing agency forecasts its actual costs under a WO to exceed the amount of funds available under that WO, it shall promptly notify the requesting agency of the amount of additional funds necessary to complete the work under that WO. The requesting agency shall either provide the additional funds to the servicing agency, require that the scope of work be limited to that which can be paid for by the then-available funds, or direct termination of the work under that WO.

Within 90 days of completing the work under a WO, the servicing agency shall conduct an accounting to determine the actual costs of the work. Within 30 days of completion of this accounting, the servicing agency shall return to the requesting agency any funds advanced in excess of the actual costs as then known, or the requesting agency shall provide any additional funds necessary to cover the actual costs as then known. Such an accounting shall in no way limit the requesting agency's duty in accordance with Article X to pay for any costs, such as contract claims or other liability, which may become known after the final accounting.

The requesting agency shall invoice via the Treasury Department's Intra-Government Payment and Collection (IPAC) system to:

US DOE Agency Location Code (ALC)	89185396
US ACOE Agency Location Code (ALC)	00008736

ARTICLE VII - APPLICABLE LAWS

This MIA and all documents and actions pursuant to it shall be governed by the applicable statutes, regulations, directives, and procedures of the United States. Unless otherwise required by law, all contract work undertaken by the servicing agency shall be governed by the servicing agency's policies and procedures.

ARTICLE VIII - CONTRACT CLAIMS AND DISPUTES

All claims and disputes by contractors arising under or relating to contracts awarded by the servicing agency shall be resolved in accordance with Federal law and the terms of the individual contract. The servicing agency shall have dispute resolution authority for these claims. Any contracting officer's final decision may be appealed by the contractor pursuant to the Contract Disputes Act of 1978 (41 U.S.C. § 601-613). The Armed Services Board of Contract Appeals (ASBCA) is designated as the appropriate board of contract appeals for DA contract claims and disputes. In lieu of appealing to the ASBCA or its successor, the DA's contractor may bring an action directly to the United States Court of Federal Claims. The Department of Energy Board of Contract Appeals (DOEBCA) is designated as the appropriate board of contract appeals for DOE/NETL contract claims and disputes. In lieu of appealing to the DOEBCA or its successors, the DOEBCA's contractor may bring an action directly to the United States Court of Federal Claims.

The servicing agency shall be responsible for handling all litigation involving disputes and appeals, and for coordinating with the Department of Justice as appropriate. The servicing agency shall notify the requesting agency of any such litigation and afford the requesting agency an opportunity to review and comment on the litigation proceedings and any resulting settlement negotiations.

ARTICLE IX - DISPUTE RESOLUTION

The parties agree that, in the event of a dispute between the parties, the requesting agency and the servicing agency shall use their best efforts to resolve that dispute in an informal fashion through consultation and communication, or other forms of non-binding alternative dispute resolution mutually acceptable to the parties. The parties agree that, in the event such measures fail to resolve the dispute, they shall refer it for resolution to the Office of Management and Budget.

ARTICLE X — RESPONSIBILITY FOR COSTS

If liability of any kind is imposed on the United States relating to the servicing agency's provision of goods or services under this MIA, the servicing agency will accept accountability for its actions, but the DOE/NETL requesting agency shall remain responsible as the program proponent for providing such funds as are necessary to discharge the liability, and all related costs. This obligation extends to all funds legally available to discharge this liability, including funds that may be made legally available through transfer, reprogramming or other means. Should the requesting agency have insufficient funds legally available, including funds that may be made legally available through transfer, reprogramming or other means, they remain responsible for seeking additional funds from Congress for such purpose, although nothing in this MIA shall be construed to imply that Congress will appropriate funds sufficient to meet the liability.

Notwithstanding the above, this MIA does not confer any liability upon the requesting agency for claims payable by the servicing agency under the Federal Torts Claims Act. Provided

further that nothing in this MIA is intended or will be construed to create any rights or remedies for any third party and no third party is intended to be a beneficiary of this MIA.

ARTICLE XI - PUBLIC INFORMATION

Justification and explanation of the requesting agency's programs before Congress and other agencies, departments, and offices of the Federal Executive Branch shall be the responsibility of the requesting agency. The servicing agency may provide, upon request, any assistance necessary to support the requesting agency's justification or explanations of the requesting agency's programs conducted under this MIA. In general, the requesting agency is responsible for all public information. The servicing agency may make public announcements and respond to all inquiries relating to the ordinary procurement and contract award and administration process. The parties shall make their best efforts to give the other party advance notice before making any public statement regarding work contemplated, undertaken, or completed pursuant to WOs under this MIA.

ARTICLE XII - MISCELLANEOUS

A. Other Relationships or Obligations

This MIA shall not affect any pre-existing or independent relationships or obligations between the DOE/NETL and the DA.

B. Survival

The provisions of this MIA which require performance after the expiration or termination of this MIA shall remain in force notwithstanding the expiration or termination of this MIA.

C. Severability

If any provision of this MIA is determined to be invalid or unenforceable, the remaining provisions shall remain in force and unaffected to the fullest extent permitted by law and regulation.

ARTICLE XIII - AMENDMENT, MODIFICATION AND TERMINATION

This MIA may be modified or amended only by written, mutual agreement of the parties. Either party may terminate this MIA by providing written notice to the other party. The termination shall be effective upon the sixtieth calendar day following notice, unless a later date is set forth. In the event of termination, the requesting agency shall continue to be responsible for all costs incurred by the servicing agency under this MIA and for the costs of closing out or transferring any on-going contracts.

ARTICLE XIV - EFFECTIVE DATE


This MIA shall become effective when signed by both the DOE/NETL and the DA.

U.S. DEPARTMENT OF ENERGY
NATIONAL ENERGY TECHNOLOGY
LABORATORY

DEPARTMENT OF THE ARMY

BY: 

JAMES C. KNUDSEN
Contracting Officer

BY: 

WILLIAM E. BULEN
Colonel, Corps of Engineers
District Engineer

DATE: 10/5/05

DATE: 10/14/05